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**Testimony of
Leslie J. Gabel-Brett, Ph.D.
Executive Director
Permanent Commission on the Status of Women
Before the
Judiciary Committee
Friday, March 10, 2006**

**Re: R.B. 5600, AAC Parenting Time and Parental Responsibility with Respect to the
Custody of a Minor Child
R.B. 5599, AAC the Assignment of Property and the Award of Alimony Upon
Dissolution of Marriage, Legal Separation or Annulment**

Good morning Sen. McDonald, Rep. Lawlor and members of the Judiciary Committee. My name is Leslie Gabel-Brett and I am the Executive Director of the Permanent Commission on the Status of Women. Thank you for this opportunity to testify regarding two family law bills before you today. The PCSW receives many phone calls each year from women seeking help or referrals to resolve family law disputes, including custody, visitation and child support. Sometimes the callers are victims of domestic violence or are unable to afford a family law attorney.

We oppose R.B. 5600, AAC Parenting Time and Parental Responsibility with Respect to the Custody of a Minor Child because it is unnecessary and will make it more difficult for courts to make custody decisions in the best interests of the children. The

language of the bill is complicated and is phrased in the negative – “There shall be no presumption that awarding disproportionate parenting time...is in the best interests of a minor child...” when, in fact, there is currently no presumption whatsoever, either for or against “disproportionate parenting time.”

The only rule currently in effect is that the custody arrangement must be in the best interests of the child, and we believe that rule is the best one and should not be modified. The language of the raised bill goes on to propose that the best interests of the child are considered only if the facts show that such interests “require” that “disproportionate parenting time” be awarded. Although not defined here,

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“disproportionate parenting time” could mean any custody arrangement that deviates from an equal, 50/50 division of the child’s time between parents. This would restrict the application of the “best interests of the child” test to a much narrower field.

The complex matter of ordering custody or “parental responsibility plans” when parents divorce was thoroughly considered and acted upon by this committee and the legislature last session, resulting in passage of P.A. 05-258. As you may recall, that law sets forth *sixteen* factors the court may consider in determining the best interests of the child. In other words, existing law already gives judges considerable guidance, and firmly sets the interests of the child, rather than the potentially competing interests of their parents, as the controlling factor.

Our experience at the PCSW has taught us that hurt and angry divorcing spouses – both women and men – may use the legal process to pursue emotional goals. Of course, we tend to hear one side of the story from far too many women who have been harassed, bullied and “out-lawyered” by angry ex-spouses who have more financial resources and may use custody battles to hurt them or force them into concessions on other contested matters. We understand that there are other sides of the story and that fathers can be hurt by divorce, as well. For these reasons we feel strongly that we should keep family laws regarding custody and child support as separate as possible from the competing interests of the parents and focus, as we currently do, on the interests of the children.

We also oppose R.B. 5599, AAC the Assignment of Property and the Award of Alimony Upon Dissolution of Marriage, Legal Separation or Annulment that would eliminate any of the grounds enumerated for divorce from consideration in the assignment of property or alimony. Some of the grounds listed as the basis for divorce have a direct relation to the financial circumstances of the divorcing parties and should be considered if raised by one or both of them. For example, the grounds for divorce include “fraudulent contract,” “wilful desertion...with total neglect of duty,” and “habitual intemperance.” These may be old-fashioned legal phrases, but the financial

consequences are still relevant. In determining a financial award, the court should be able to consider whether the conduct of one of the parties has had an impact on the financial circumstances of the other party and whether that impact can be equitably addressed or ameliorated by the award.

Thank you for your consideration of these matters.